

SCHEDULE 3

(introduced by section 61)

MINOR AND CONSEQUENTIAL AMENDMENTS AND REPEALS

PART 1

ACTS

Companies Clauses Consolidation (Scotland) Act 1845 (c. 17)

- 1 In section 114 (remedy where officer of a company fails to render an account of monies received by the officer on behalf of the company) of the Companies Clauses Consolidation (Scotland) Act 1845, for “poining and sale” there is substituted “attachment”.

Lands Clauses Consolidation (Scotland) Act 1845 (c. 19)

- 2 In section 11 (payment of feu duties or ground annuals charged as tolls or rates) of the Lands Clauses Consolidation (Scotland) Act 1845, the words from “, or”, where it fifth occurs, to the end are repealed.

Railway Clauses Consolidation (Scotland) Act 1845 (c. 33)

- 3 In the Railways Clauses Consolidation (Scotland) Act 1845—
- (a) in section 132 (recovery of damages, charges or expenses), the words from “and”, where it second occurs, to the end; and
 - (b) sections 138 (recovery of penalties) and 139 (imprisonment in default of sufficient poining),
- are repealed.

Markets and Fairs Clauses Act 1847 (c. 14)

- 4 In sections 38 (recovery of tolls etc.) and 39 (settlement of disputes concerning tolls etc.) of the Markets and Fairs Clauses Act 1847, the words “, and in Scotland by poining and sale,”, where they occur in each section are repealed.

Harbours, Docks and Piers Clauses Act 1847 (c. 27)

- 5 In section 46 (disputes concerning recovery of rates or charges) of the Harbours, Docks and Piers Clauses Act 1847, for “poining and sale” there is substituted “attachment”.

Entail Amendment Act 1853 (c. 94)

- 6 In section 16 (recovery of feu duties and ground annuals payable by a company) of the Entail Amendment Act 1853, the words “, or summarily by poining and sale of the goods and effects of such company on application by petition to such sheriff” are repealed.

Status: This is the original version (as it was originally enacted).

Writs Execution (Scotland) Act 1877 (c. 40)

- 7 In paragraph (a) of section 3 (effect of warrant for diligence in extract decree) of the Writs Execution (Scotland) Act 1877, for “poining”, in both places where it occurs, there is substituted “attachment”.

Sheriff Courts (Scotland) Extracts Act 1892 (c. 17)

- 8 In paragraph (a) of section 7(1) (effect of warrant for diligence in extract decree) of the Sheriff Courts (Scotland) Extracts Act 1892, for “poining”, in both places where it occurs, there is substituted “attachment”.

Public Health (Scotland) Act 1897 (c. 38)

- 9 In sections 153 (recovery of penalties) and 154 (applications to sheriff for recovery of penalties) of the Public Health (Scotland) Act 1897, for “poining”, where it occurs in each section, there is substituted “attachment”.

Local Government (Scotland) Act 1947 (c. 43)

- 10 (1) The Local Government (Scotland) Act 1947 is amended in accordance with this paragraph.
- (2) In section 247(3) (diligences which can be used to recover rates), for paragraph (a) there is substituted—
- “(a) an attachment;”.
- (3) In section 247A(1) (sheriff officer’s fees and outlays), for the words from “paragraphs” to “sale)” there is substituted “section 39(1) of the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17) (expenses of attachment)”.

Taxes Management Act 1970 (c. 9)

- 11 (1) The Taxes Management Act 1970 is amended in accordance with this paragraph.
- (2) In section 63(2) (diligences which can be used to recover tax), for paragraph (a) there is substituted—
- “(a) an attachment;”.
- (3) In section 63A(1) (sheriff officer’s fees and outlays), for the words from “paragraphs” to “sale)” there is substituted “section 39(1) of the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17) (expenses of attachment)”.

Water (Scotland) Act 1980 (c. 45)

- 12 In section 35(2)(b) (which provides that water fittings are not subject to diligence, to the landlord’s hypothec or to bankruptcy proceedings) of the Water (Scotland) Act 1980, for “poining or other” there is substituted “any”.

Matrimonial Homes (Family Protection) (Scotland) Act 1981 (c. 59)

- 13 In section 11 (which enables a poining of furniture or plenishings possessed or used by a debtor’s spouse to be annulled) of the Matrimonial Homes (Family Protection) (Scotland) Act 1981—

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- (a) for “a poiding” there is substituted “an attachment”; and
- (b) for “the poiding”, in each place where it occurs, there is substituted “the attachment”.

Car Tax Act 1983 (c. 53)

- 14 (1) Paragraph 3 of Schedule 1 to the Car Tax Act 1983 is amended in accordance with this paragraph.
- (2) In sub-paragraph (4) (diligences which can be used to recover car tax), for sub-sub-paragraph (a) there is substituted—
“*(a) an attachment;*”.
- (3) In sub-paragraph (5) (sheriff officer’s fees and outlays), for the words from “paragraphs” to “sale” there is substituted “section 39(1) of the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17) (expenses of attachment)”.

Bankruptcy (Scotland) Act 1985 (c. 66)

- 15 (1) The Bankruptcy (Scotland) Act 1985 is amended in accordance with this paragraph.
- (2) In section 7(1)(c) (constitution of apparent insolvency following poiding or seizure in pursuance of summary warrant), for “a poiding” there is substituted “an attachment (or an attempt to attach)”.
- (3) In section 33(1) (limitation on types of property which may vest in trustee during sequestration), for paragraph (a) there is substituted—
“*(a) any property kept outwith a dwellinghouse in respect of which attachment is, by virtue of section 11(1) of the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17), incompetent;*
(aa) any property kept in a dwellinghouse which is not a non-essential asset for the purposes of Part 3 of that Act;”.
- (4) In section 37 (effect of sequestration on diligence)—
(a) for “poiding”, in each place where it occurs in subsections (4) and (5), there is substituted “attachment”;
(b) for “poider”, in both places where it occurs, there is substituted “attacher”;
and
(c) for “poided”, in both places where it occurs, there is substituted “attached”.
- (5) In paragraph 24 (effect of apparent insolvency on poidings and arrestments) of Schedule 7—
(a) in sub-paragraph (1), for “poidings” there is substituted “attachments”; and
(b) in sub-paragraph (3)—
(i) for “poiding”, where it first occurs, there is substituted “attachment”;
(ii) for “a poiding”, where it first occurs, there is substituted “an attachment”;
(iii) for “a poiding”, where it second occurs, there is substituted “an attaching”;
(iv) for “a sale” there is substituted “an auction”; and
(v) for “poided” there is substituted “attached”.

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Gas Act 1986 (c. 44)

- 16 (1) The Gas Act 1986 is amended in accordance with this paragraph.
- (2) In paragraph 29(2) (which provides that gas meters and fittings are not subject to pouncing or to bankruptcy proceedings) of Schedule 2B, for “pouncing” there is substituted “attachment”.
- (3) In paragraph 19(2) (which provides that gas fittings lent to or hired by a consumer are not subject to pouncing or to bankruptcy proceedings) of Schedule 5, for “pouncing” there is substituted “attachment”.

Debtors (Scotland) Act 1987 (c. 18)

- 17 (1) The Debtors (Scotland) Act 1987 is amended in accordance with this paragraph.
- (2) In section 2(1)(b) (effect of time to pay direction on diligence), for sub-paragraph (ii) there is substituted—
“*(ii) an attachment;*”.
- (3) In section 8(1) (effect of interim time to pay order on diligence), for paragraph (a) there is substituted—
“(a) to auction any articles which have been attached;”.
- (4) In section 9 (effect of time to pay order on diligence)—
(a) in subsection (1)(b), for sub-paragraph (ii) there is substituted—
“*(ii) an attachment;*”;
(b) in subsection (2)(d), for “a pouncing” there is substituted “an attachment”;
(c) in subsection (3)—
(i) for “a pouncing” there is substituted “an attachment”; and
(ii) for “the pouncing” there is substituted “the attachment”;
(d) in subsection (4), for the words from “a pouncing” to the end there is substituted “an attachment, making a report of attachment under section 17 of the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17) or applying for an order under section 20(1) of that Act.”;
(e) in subsection (8)(a)—
(i) for “21(1)(b) of this Act” there is substituted “20(1) or 22(3) of the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17)”;
and
(ii) for “pounded” there is substituted “attached”;
(f) in subsection (9)—
(i) for “27 of this Act” there is substituted “24 of the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17)”; and
(ii) for “a pouncing” there is substituted “an attachment”; and
(g) in subsection (12)—
(i) for “25 of this Act” there is substituted “25 of the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17)”;
(ii) for “a pouncing” there is substituted “an attachment”; and
(iii) for “another pouncing” there is substituted “another attachment”.
- (5) In section 10 (variation and recall of time to pay orders)—
(a) in subsection (1)(b)—

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- (i) for “a poinding” there is substituted “an attachment”; and
 - (ii) for “the poinding” there is substituted “the attachment”; and
 - (b) in subsection (2) for “a poinding” there is substituted “an attachment”.
- (6) In section 13(2) (saving of creditor’s rights and remedies on recall of poinding or arrestment)—
- (a) in subsection (b), for “a poinding” there is substituted “an attachment”; and
 - (b) in the full-out words at the end, for “poinding” there is substituted “attachment”.
- (7) In section 15(1), the definition of “poinding” is repealed.
- (8) In section 70(1)(b) (which stipulates the dates on which an earnings arrestment schedule, current maintenance arrestment schedule or conjoined arrestment order may not be served), for “17(1) of this Act” there is substituted “12(1) of the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17)”.
- (9) In paragraph (a) of section 87(2) (effect of warrant for diligence in extract decree), for “poinding”, in both places where it occurs, there is substituted “attachment”.
- (10) In section 90 (which provides, among other matters, that poindings are not competent unless a charge for payment has not been met), for “a poinding”, wherever it occurs, there is substituted “an attachment”.
- (11) In section 93 (which provides for the recovery of expenses of certain diligences)—
- (a) paragraph (a) of subsection (1); and
 - (b) subsection (3),
- are repealed.
- (12) In section 94 (which provides for the prescription of sums recovered by diligence)—
- (a) paragraph (a) of subsection (1); and
 - (b) the word “poinding,” in subsection (2)(b),
- are repealed.
- (13) In section 95(1) (termination of certain diligences on payment or tender of full amount owing), paragraph (a) is repealed.
- (14) Section 99 (which applies certain provisions of the 1987 Act to sequestration for rent and arrestment) is repealed.
- (15) In section 103 (appeals)—
- (a) in subsection (1), the words “21(1), 27(4), 43(5)” and “and paragraphs 6(1), 11(4) and 14(5) of Schedule 5 thereto”; and
 - (b) in subsection (7), paragraphs (a) to (j) and (q),
- are repealed.
- (16) In section 104 (regulations)—
- (a) in subsection (1), the words “except as provided in subsection (2) below”; and
 - (b) subsection (2),
- are repealed.
- (17) In section 106 (interpretation), the definition of “warrant of sale” is repealed.

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(18) In Schedule 7 (transitional provisions), paragraphs 4, 7(1)(a) and 9(4)(a) are repealed.

Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c. 47)

- 18 (1) Schedule 2 to the Abolition of Domestic Rates Etc. (Scotland) Act 1987 is amended in accordance with this paragraph.
- (2) In paragraph 7(3) (diligences which can be used to recover community charge), for paragraph (a) there is substituted—
“a) an attachment;”.
- (3) In paragraph 8(1) (sheriff officer’s fees and outlays), for the words from “paragraphs” to “1987” there is substituted “section 39(1) of the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17) (expenses of attachment)”.

Income and Corporation Taxes Act 1988 (c. 1)

- 19 In paragraph 6(5) (meaning of proceedings for collecting tax) of Schedule 16 to the Income and Corporation Taxes Act 1988, for “pounding for tax” there is substituted “attachment”.

Child Support Act 1991 (c. 48)

- 20 In paragraph (a) of section 38(1) (effect of liability order) of the Child Support Act 1991, for “a pounding and sale under Part II of the Debtors (Scotland) Act 1987” there is substituted “an attachment”.

Social Security Administration Act 1992 (c. 5)

- 21 In section 121B of the Social Security Administration Act 1992—
- (a) in subsection (1) (diligences which can be used to recover unpaid contributions), for paragraph (a) there is substituted—
“a) an attachment;” and
- (b) in subsection (4) (sheriff officer’s fees and outlays), for the words from “paragraphs” to “sale” there is substituted “section 39(1) of the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17) (expenses of attachment)”.

Local Government Finance Act 1992 (c. 14)

- 22 (1) Schedule 8 to the Local Government Finance Act 1992 is amended in accordance with this paragraph.
- (2) In paragraph 2(3), for paragraph (a) there is substituted—
“a) an attachment;”.
- (3) In paragraph 4(1) (sheriff officer’s fees and outlays), for the words from “paragraphs” to “1987” there is substituted “section 39(1) of the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17) (expenses of attachment)”.

Local Government etc. (Scotland) Act 1994 (c. 39);

- 23 (1) Schedule 10 to the Local Government etc. (Scotland) Act 1994 is amended in accordance with this paragraph.
- (2) In paragraph 2(3) (diligences which can be used to recover water and sewerage charges), for sub-sub-paragraph (a) there is substituted—
“(a) an attachment;”.
- (3) In paragraph 4(1) (sheriff officer’s fees and outlays), for the words from “paragraphs” to “1987” there is substituted “section 39(1) of the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17) (expenses of attachment)”.

Proceeds of Crime (Scotland) Act 1995 (c. 43)

- 24 In paragraph 7(a) (pounding and arrestment not competent in respect of property being administered under the Act) of Schedule 1 to the Proceeds of Crime (Scotland) Act 1995 for “pounding” there is substituted “attachment”.

Criminal Procedure (Scotland) Act 1995 (c. 46)

- 25 In section 221(1)(a) (authorisation of recovery of fine by civil diligence) of the Criminal Procedure (Scotland) Act 1994, for “pounding”, in both places where it occurs, there is substituted “attachment”.

Finance Act 1997 (c. 16)

- 26 In section 52 of the Finance Act 1997—
- (a) in subsection (2) (diligences which can be used to recover certain taxes), for paragraph (a) there is substituted—
“(a) an attachment;” and
- (b) in subsection (3) (sheriff officer’s fees and outlays), for the words from “paragraphs” to “sale” there is substituted “section 39(1) of the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17) (expenses of attachment)”.

Abolition of POUNDINGS and Warrant Sales Act 2001 (asp 1)

- 27 The Abolition of POUNDINGS and Warrant Sales Act 2001 is repealed.

Water Industry (Scotland) Act 2002 (asp 3)

- 28 In paragraph 2(3) (diligences which can be used to recover unpaid charges) of schedule 4 to the Water Industry (Scotland) Act 2002, before paragraph (a) there is inserted—
“(za) an attachment;”.

Proceeds of Crime Act 2002 (c. 29)

- 29 (1) In section 285 (effect of recovery order on diligence)—
- (a) for “pounding”, where it occurs in subsections (1) and (7) there is substituted “attachment”; and
- (b) in subsection (2), for “pounded” there is substituted “attached.”

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- (2) In paragraph 7 (effect of appointment of administrator on diligence) of Schedule 3—
- (a) in subsection (1)—
 - (i) for “poining” there is substituted “attachment”; and
 - (ii) for “poinder” there is substituted “attacher”; and
 - (b) in subsection (2), for “poindeed” there is substituted “attached”.

PART 2

SUBORDINATE LEGISLATION

Stamp Duty Reserve Tax Regulations 1986 (S.I. 1986/1711)

- 30 (1) Part II (which restates the provisions of the Taxes Management Act 1970 (c. 9) for the purposes of the regulations) of the Schedule to the Stamp Duty Reserve Tax Regulations 1986 is amended in accordance with this paragraph.
- (2) In section 63(2), for paragraph (a) there is substituted—
 “(a) an attachment;”.
- (3) In section 63A(1), for the words from “paragraphs” to “sale)” there is substituted “section 39(1) of the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17) (expenses of attachment)”.

Confiscation of the Proceeds of Drug Trafficking (Designated Countries and Territories) (Scotland) Order 1991 (S.I. 1991/1467)

- 31 In section 19 of Schedule 3 to the Confiscation of the Proceeds of Drug Trafficking (Designated Countries and Territories) (Scotland) Order 1991 (which modifies Part I of the Criminal Justice (Scotland) Act 1987 in its application to external confiscation orders)—
- (a) for “poining”, in both places where it occurs, there is substituted “attachment”; and
 - (b) for “poindeed” there is substituted “attached”.

Merchant Shipping (Ministry of Defence Commercially Managed Ships) Order 1992 (S.I. 1992/1293)

- 32 In Article 11 of the Merchant Shipping (Ministry of Defence Commercially Managed Ships) Order 1992, for “poining and sale” there is substituted “attachment”.

Merchant Shipping (Ministry of Defence Yachts) Order 1992 (S.I. 1992/1294)

- 33 In Article 11 of the Merchant Shipping (Ministry of Defence Yachts) Order 1992, for “poining and sale” there is substituted “attachment”.

Insurance Premium Tax Regulations 1994 (S.I. 1994/1774)

- 34 In Regulation 43(b) of the Insurance Premium Tax Regulations 1994—
- (a) for the words from “a poining” to “1987” there is substituted “an attachment”; and

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- (b) for “paragraph 18(3) of that Schedule” there is substituted “section 30(4) of the Debt Arrangement and Attachment (Scotland) Act (asp 17)”.

Lloyd’s Underwriters (Gilt-edged Securities) (Periodic Accounting for Tax on Interest) Regulations 1995 (S.I. 1995/3225)

- 35 In Regulation 9(5) of the Lloyd’s Underwriters (Gilt-edged Securities) (Periodic Accounting for Tax on Interest) Regulations 1995, for “poin ding” there is substituted “attachment”.

Landfill Tax Regulations 1996 (S.I. 1996/1527)

- 36 In Regulation 49(b) of the Landfill Tax Regulations 1994—
- (a) for the words from “a poin ding” to “1987” there is substituted “an attachment”; and
- (b) for “paragraph 18(3) of that Schedule” there is substituted “section 30(4) of the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17)”.

Stamp Duty (Collection and Recovery of Penalties) Regulations 1999 (S.I. 1999/2537)

- 37 (1) Part II (which restates the provisions of the Taxes Management Act 1970 (c. 9) for the purposes of the regulations) of the Schedule to the Stamp Duty (Collection and Recovery of Penalties) Regulations 1999 is amended in accordance with this paragraph.
- (2) In section 63(2), for paragraph (a) there is substituted—
- “(a) an attachment;”.
- (3) In section 63A(1), for the words from “paragraphs” to “sale)” there is substituted “section 39(1) of the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17) (expenses of attachment)”.

Civil Legal Aid (Scotland) Regulations 2002 (S.S.I. 2002/494)

- 38 In Regulation 33 of the Civil Legal Aid (Scotland) Regulations 2002, for paragraph (c) there is substituted—
- “(c) in respect of any article—
- (i) which has, or has purported to have, been attached; and
- (ii) in respect of which the sheriff has by virtue of subsection (3) of section 55 of the Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17), made an order under subsection (2) of that section;
- (d) in respect of any article which is recovered or preserved from the effects of an attachment which, by virtue of—
- (i) section 11(1) of that Act of 2002; or
- (ii) the article not being a non-essential asset for the purposes of Part 3 of that Act,
- is incompetent.”.